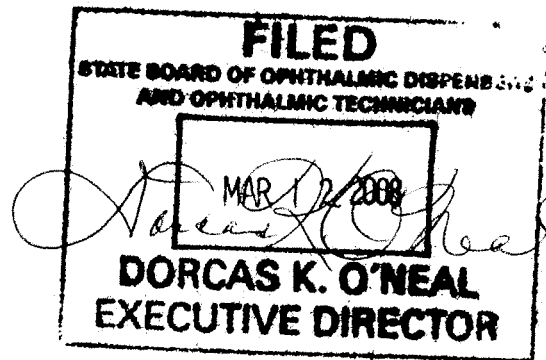


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ORIGINAL

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
STATE BOARD OF OPHTHALMIC DISPENSERS  
AND OPHTHALMIC TECHNICIANS

IN THE MATTER OF THE	:	
APPLICATION OF	:	Administrative Action
	:	
<b>MALIK ABDULLAH</b>	:	
	:	<b>PROVISIONAL ORDER OF DENIAL</b>
FOR A PERMIT AS AN APPRENTICE :		<b>OF PERMIT</b>
OPHTHALMIC DISPENSER	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened before the New Jersey State Board of Ophthalmic Dispensers and Ophthalmic Technicians (hereinafter "the Board"), upon receipt of a completed application, dated May 10, 2007, from Malik Abdullah for a permit as an Apprentice Ophthalmic Dispenser. The Board has reviewed the application for the permit and all relevant documentation submitted, including the applicant's criminal history, letter submitted to the Board, Court Order and the transcript of applicant's testimony before the Board on February 13, 2007. The Board makes the following preliminary findings of fact and conclusions of law:

### FINDINGS OF FACT

1. Malik Abdullah submitted an application for a permit as an Apprentice Ophthalmic Dispenser on or about May 10, 2007. As part of his application, the applicant responded "No" to question number eight (8) regarding whether he had ever been summoned, taken into custody, tried, charged with or plead guilty to any violation of the law, ordinance, felony, misdemeanor or disorderly offense, in New Jersey, any other state, the District of Columbia or in any other jurisdiction. (Annexed as Exhibit A, attached and made a part hereto)

2. As part of Mr. Abdullah's application, the applicant responded "No" to question number nine (9) regarding whether he had ever been convicted of any crime or offense under any circumstance. (Annexed as Exhibit A, attached and made a part hereto)

3. As part of the application process, the applicant submitted the Certification and Authorization Form For A Criminal History Background Check on September 19, 2007 and answered "No" to question number six (6) regarding whether he had been arrested and/or convicted of a crime or offense. (Annexed as Exhibit B, attached and made a part hereto)

4. On November 14, 2007 the Board received the results of the applicant's Criminal History Background Check which revealed that the applicant had been arrested and convicted on May 27, 1993 of conspiracy to distribute cocaine and possession with intent to distribute cocaine and aiding and abetting. The applicant's Criminal History Background Check further revealed that the applicant had been arrested on September 23, 2003 for probation violation. (Annexed as Exhibit C, attached and made a part hereto)

5. In response to a letter from the Board asking for a written explanation and documentation about his criminal history, the

applicant submitted a letter, dated November 26, 2007 stating that he had successfully completed his sentence and term of supervised release. The applicant attached a copy the Order of the Court, filed on September 19, 2005 discharging the applicant from Supervised Release and a letter, dated November 27, 2007 stating that the applicant had completed his term of supervision on September 16, 2005. (Annexed as Exhibit D, attached and made a part hereto)

6. The applicant appeared pro se before the Board on February 13, 2008 and admitted his criminal history and admitted that he was presently practicing ophthalmic dispensing in the State of New Jersey. (Annexed as Exhibit E, attached and made a part hereto)\*

7. The applicant admitted that he answered "No" to the questions about his arrest record and conviction because the arrests and conviction did not occur in the State of New Jersey. (Exhibit E at page 15 line 16 - 20, page 16 line 5 through page 18 line 8)

8. The applicant admitted that he engaged in unlicensed ophthalmic dispensing at a time when he did not hold a license. (Exhibit E at page 11 line 4 through page 12 line 22)

#### **CONCLUSIONS OF LAW**

1. Respondent's indication on his application as well as on his Criminal History Background Check form that he had not previously been arrested or convicted of any crime or offense constitutes repeatedly engaging in the use or employment of dishonesty, fraud, deception and misrepresentation, in violation of N.J.S.A. 45:1-21(b).

2. Respondent admitted that he engaged in ophthalmic dispensing without a permit, license or any other authority that would permit

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\*The applicant also testified that he changed his name from Michael Cunningham to Malik Abdullah. (Exhibit E at page 18).

him to engage in the practice of ophthalmic dispensing in the State of New Jersey, in violation of N.J.S.A. 52:17B-41.1 et seq.

DISCUSSION

The applicant's flagrant misrepresentation of his criminal history on his application and on the Criminal History Background Check form demonstrates a lack of integrity and his practice of ophthalmic dispensing in the State of New Jersey without legal authority to practice indicates that granting the applicant a permit at this time would be contrary to the interests of the residents of the State of New Jersey.

ACCORDINGLY, IT IS on this 12th day of March 2008

ORDERED that:

1. Respondent's application for a permit as an Apprentice Ophthalmic Dispenser in the State of New Jersey shall be and hereby is provisionally denied.

2. The Board shall not entertain an application for permit from the respondent for a period of two (2) years. Such application shall affirmatively demonstrate clear and convincing evidence of rehabilitation and include the following documents:

a. An up-to-date report, signed and dated by a qualified mental health professional (with copy of the mental health professional's curriculum vitae) regarding respondent's ability to appropriately represent his credentials and background and demonstrate integrity.

b. A statement signed and dated by the respondent representing that there have not been any "criminal actions" taken against him in New Jersey or any other jurisdiction since the denial of a permit as an Ophthalmic Dispenser. "Criminal actions" includes arrests, convictions for criminal offenses and/or motor vehicle offenses regardless of whether the charges/summonses were dismissed,

he was found not guilty, plead guilty or entered a plea bargain. The signed statement must include the following language above his signature:

"I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment."

c. A letter outlining the type of employment, occupation or other activity respondent engaged in during the time respondent was denied a permit as an Apprentice Ophthalmic Dispenser in the State of New Jersey.

3. The within Order shall be subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry hereof unless the applicant requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

a. Submitting a written request for modification or dismissal to Dorcas O'Neal, Executive Director, New Jersey State Board of Ophthalmic Dispensers and Ophthalmic Technicians, P.O. Box 45011, Newark, New Jersey 07101;

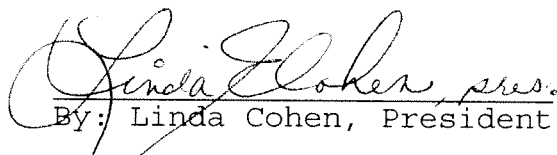
b. Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed;

c. Submitting any and all documents or other written evidence supporting the applicant's request for consideration and reasons therefor or in mitigation of the terms in this Provisional Order of Denial of Permit.

4. Any submissions will be reviewed by the Board, and the Board will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a supplemental submission during the thirty-day period, or if the Board is not persuaded that submitted materials merit further consideration, a Final Order of Denial of Permit will be entered.

5. In the event that the applicant's submissions establish a need for further proceedings, including, but not limited to, an evidentiary hearing, the applicant shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, the preliminary findings of fact and conclusions of law contained herein shall serve as notice of the factual and legal allegations in such proceeding.

NEW JERSEY STATE BOARD OF OPHTHALMIC  
DISPENSERS AND OPHTHALMIC TECHNICIANS

  
By: Linda Cohen, President